

Application for an Appeal to the Board of Zoning Appeal

Hamilton Township Board of Zoning Appeals

Mr. & Mrs. Chad Schliesler, 1288 Tecumseh Lane

7:00 PM, December 17, 2015

General Information

- Applicant / owner:** Mr. & Mrs. Chad Schliesler
1288 Tecumseh Drive
Maineville, Ohio 45039
- Property Location:** 1288 Tecumseh Drive
Miami Bluffs Subdivision
Hamilton Township, Ohio 45039
- Contiguous Owners:** See application.
- Existing Zoning:** R-4 PUD Single Family Residence Zone
- Parcel Information:**
- | | |
|----------|------------------------|
| Size | 0.3208 acres |
| Land Use | Single Family Dwelling |
- Surrounding Land Use:**
- | | | |
|--------|---------|------------------------------|
| North: | R-4 PUD | Single Family Residence Zone |
| East: | R-1 PUD | Single Family Residence Zone |
| South: | R-1 | Single Family Residence Zone |
| West: | R-1 | Single Family Residence Zone |
- Requested Action:** The applicant has requested a variance from Section 6.1.3.E in order to build a patio enclosure which encroaches into the minimum thirty (30) feet setback requirement for Miami Bluffs Subdivision. The addition would protrude thirteen (13) feet into the rear yard setback reducing it from the required thirty (30) feet to seventeen (17) feet.
- History:** Biehl Brothers Contracting applied for the all season patio enclosure permit on November 11, 2015, and the permit was denied due to the required rear yard setback. The contractor and the homeowners looked at options and after some discussion it was decided they would apply for the variance. The variance was received in the office on November 24, 2015. The hearing date was then set by the Board for December 17, 2015.
- Applicable Regulations:** In Section 6.1.3.E The Hamilton Township Zoning Code, states,
- The rear yard setback shall extend the full width of the lot and shall be measured from the rear lot line.
- Section 6.1.3.A of The Hamilton Township Zoning Code, states,
- Setbacks refer to the unobstructed, unoccupied open area between the furthestmost projection of a structure and the property line of the lot on which the structure is located.
- Miami Bluffs Subdivision has a rear yard setback of thirty (30) feet.

Similar Cases:

Mr. Daniel Ferris, 11/19/2015, 6875 Prairieview Drive

Applicant requested a four (4) feet variance for the construction of a wood deck in the rear yard, variance was granted.

Mr. Bays / Champion, 6/26/2014, 411 Crossbow

Applicant requested a variance to construct a patio enclosure in the rear yard setback, reducing it by twelve (12) feet. Variance was approved.

Mr. Stephen Knepfle, 4/4/2013, 8353 Yankee Pass

Applicant applied for a variance to construct a deck, leaving the rear yard setback at eighteen (18) instead of the required thirty (30.) Variance was approved with stipulations.

Mr. & Mrs. James Buck, 6/28/2012, 537 Misty Dawn

Applicant applied for a variance to construct a roof over existing patio and reduce the rear yard setback from the required thirty-five (35) to twenty-three (23) feet. Variance was approved.

Mr. Pete Reed, 3/15/2012, 3104 Village View Lane

Applicant applied for and was granted a ten (10) foot variance to construct a deck into the required thirty (30) feet rear yard setback.

Mr. Jerry Clark, 10/6/2011, 5184 Emerald View Drive

Applicant requested a variance to allow construction of a deck two (2) foot into the required twenty-five (25) setback. Variance was approved.

Mr. Frank T. Schroeder, 7/28/2011, 1288 Shawnee Run Drive

Applicant applied for and was granted a six (6) foot variance to allow a deck in the rear yard setback.

Site Summary:

This property is located in the Miami Bluffs Subdivision, Lot 21. The property rises slightly from street to the rear yard. The dwelling is forty-seven (47) feet deep and fifty (50) feet wide on .3208 acres. This four bedroom, three and a half baths with a full basement home was built in 2004. Current owners have resided in the house since 2012.



Hardship Requested: Applicant states the following reasons for the hardship request:

Due to the irregular wedge shaped property boundary and placement of the house on a shallow lot; we are left with virtually no ability to improve our home. We kindly request your acceptance of the project variance, allowing us to greatly improve the functionality of our rear yard, increase our property value and bring our home in alignment with features and functions already completed within the adjacent properties. Great care has been taken to provide a visually appealing addition to our home both inside and out by building upon the sheer façade and minimizing the impact to the current boundary restrictions.

Analysis: The Ohio Supreme Court granted townships and cities the authority to review area variances in *Kisil v. City of Sandusky*, where a property owner requested permission to use the property in a manner not permitted by the zoning code.

The court concluded that area variances (variances dealing with height, acreage, frontage and setbacks) involved “practical difficulties” by which a property owner, unless granted a variance, could not use a property for the purpose, which it was zoned.

In other words, the particular physical surroundings, shape, topographical condition or other extraordinary situation or condition of the specific property involved would effectively prohibit or unreasonably restrict the utilization of the property or would constitute a clearly demonstrable hardship, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out.

Recommendation: Staff recommends denial of the request. This happens many times in neighborhoods where the cul-de-sac bumps the house back into the rear yard, yet the request of thirteen (13) feet is excessive and a burden for the neighboring property owners due to the close proximity. Although not heated or cooled, a patio would provide additional area without any size restrictions.

